

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

13-cr-148 (PKC)

-against-

ORDER

KENNETH HOYT,

Defendant.

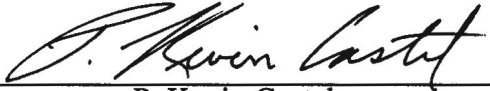
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CASTEL, U.S.D.J.

The Court has considered the government’s motion in limine seeking to admit the testimony of witnesses against Defendant in his state trial without the need to call those witnesses at the violation of supervised release hearing scheduled for November 21, 2024. The Court has also reviewed the parties’ submissions on the issue.

Fed R. Crim. P. 32.1(b)(2)(c) provides that at a revocation hearing a defendant is entitled to “an opportunity to . . . question any adverse witness unless the court determines that the interest of justice does not require the witness to appear.” When an out-of-court statement does not fall under an established hearsay exception, “Rule 32.1 requires the court to determine whether good cause exists to deny the defendant the opportunity to confront the adverse witness.” U.S. v. Williams, 443 F.3d 35, 45 (2d Cir. 2006). To make that determination, “the court must balance, on the one hand, the defendant’s interest in confronting the declarant, against, on the other hand, the government’s reasons for not producing the witness and the reliability of the proffered hearsay.” Id.

The Court concludes that good cause exists to deny Defendant the opportunity to confront the state trial witnesses. Accordingly, the government is not required to call those witnesses at the upcoming hearing. The Court will deliver an oral reading of its decision on the government's motion in limine at the November 21 hearing.

SO ORDERED.

  
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P. Kevin Castel  
United States District Judge

Dated: New York, New York  
November 19, 2024